

## GSA Board of Contract Appeals

## 6101.37

shall not include relitigation of the case on the merits. A request that the Board order further proceedings under this section shall describe the disputed issues and explain why additional proceedings are necessary to resolve those issues.

(e) *Decision.* Any award ordered by the Board shall be paid pursuant to 6101.36.

[58 FR 69250, Dec. 30, 1993, as amended at 60 FR 17028, Apr. 4, 1995]

### **6101.36 Payment of Board awards [Rule 36].**

(a) *Generally.* When permitted by law, payment of Board awards may be made in accordance with 31 U.S.C. 1304. Awards by the Board pursuant to the Equal Access to Justice Act shall be directly payable by the respondent agency over which the applicant has prevailed in the underlying appeal.

(b) *Conditions for payment.* Before a party may obtain payment of a Board award pursuant to 31 U.S.C. 1304, one of the following must occur:

(1) All parties must, by execution of a Certificate of Finality, waive their rights to relief under 6101.32 and 6101.33 and also their rights to appeal the decision of the Board; or

(2) The time for filing an appeal must expire.

(c) *Procedure for filing of certificates of finality.* Whenever the Board issues a decision or an order awarding a party any amount of money, it will attach to the copy of the decision sent to each party forms such as those illustrated in the appendix to this part. The conditions for payment prescribed in paragraph (b)(1) of this section are satisfied if each of the parties returns a completed and duly executed copy of this form to the Board. When the form is executed on behalf of an appellant or applicant by an attorney or other representative, proof of signatory authority shall also be furnished. Upon receipt of completed and duly executed Certificates of Finality from the parties, the Board will forward a copy of each such certificate (together with proof of signatory authority, if required) and a certified copy of its decision to the United States General Accounting Office to be certified for payment.

(d) *Procedure in absence of certificate of finality.* When one or more of the parties fails to submit a duly executed Certificate of Finality, but the conditions for payment have been satisfied as provided in paragraph (b)(2) of this section, any party to which an award has been made may file a written request that the Board forward its decision to the United States General Accounting Office for payment. Thereupon, the Board will forward a copy of that request and a certified copy of its decision to the United States General Accounting Office to be certified for payment.

(e) *Stipulated award.* When an appeal is settled, the parties may file with the Board a stipulation setting forth the amount of the award and stating (1) that they will not seek reconsideration of, or relief, from the Board's decision and (2) that they will not appeal the decision. The Board will adopt the parties' stipulation by decision. The Board's decision under this paragraph is an adjudication of the case on the merits.

[58 FR 69250, Dec. 30, 1993, as amended at 60 FR 17028, Apr. 4, 1995]

### **6101.37 Record on review of a Board decision [Rule 37].**

(a) *Record on review.* When a party has appealed a Board decision to the United States Court of Appeals for the Federal Circuit, the record on review shall consist of the decision sought to be reviewed, the record before the Board as described in 6101.12, and such other material as may be required by the Court of Appeals.

(b) *Notice.* At the same time a party seeking review of a Board decision files a notice of appeal, that party shall provide a copy of the notice to the Board.

(c) *Filing of certified list of record materials.* Promptly after service upon the Board of a copy of the notice of appeal of a Board decision, the Office of the Clerk of the Board shall file with the Clerk of the United States Court of Appeals for the Federal Circuit a certified list of all documents, transcripts of testimony, exhibits, and other materials constituting the record, or a list of such parts thereof as the parties may designate, adequately describing each. The Board will retain the record

and transmit any part thereof to the court upon the court's order during the pendency of the appeal.

(d) *Request by attorney of record to review record.* When a case is on appeal, an attorney of record may request permission from the Board to sign out the record on appeal to review and copy, for a reasonable period of time, if the attorney is unable to gain access to the record from another source.

**6101.38 Office of the Clerk of the Board [Rule 38].**

(a) *Open for the filing of papers.* The Office of the Clerk shall receive all papers submitted for filing, and shall be open for this purpose from 8:00 a.m. to 4:30 p.m., Eastern Time, on each day that is not a Saturday, Sunday, Federal holiday, a day on which the Office is required to close earlier than 4:30 p.m., or a day on which the Office does not open at all, as in the case of inclement weather.

(b) *Decisions and orders.* The Office of the Clerk shall keep in such form and manner as the Board may prescribe a correct copy of each decision or order of the Board subject to review and any other order or decision which the Board may direct to be kept.

(c) *Docket.* The Office of the Clerk shall keep a docket on which shall be entered the title and nature of all cases brought before the Board, the names of the persons filing such cases, the names of the attorneys or other persons appearing for the parties, and a record of all proceedings.

(d) *Copies and certifications of papers.* Upon the request of any person, copies

of papers and documents in a case may be provided by the Office of the Clerk. If making such copies involves more than minimal costs to the Board, reimbursement will be required. When required, the Office of the Clerk will certify copies of papers and documents as a true record of the Board. Except as provided in 6101.23(c) and 6101.37(d), the Office of the Clerk will not release original records in its possession to any person.

**6101.39 Seal of the Board [Rule 39].**

The Seal of the Board shall be a circular boss, the center portion of which shall depict the Seal of the General Services Administration. The outer margin of the seal shall bear the legend "Board of Contract Appeals." The Seal shall be the means of authentication of all records, notices, orders, dismissals, opinions, subpoenas, and certificates issued by the Board.

**6101.40 Forms [Rule 40].**

The forms contained in the appendix to this part are sufficient under this part and are intended to indicate the simplicity and brevity of statement which this part contemplates. The subpoena form is a required form, and it may not be altered.

APPENDIX TO PART 6101—FORM NOS. 1–5

Form Index

Form 1—Notice of Appeal, GSA Form 2465  
 Form 2—Notice of Appearance  
 Form 3—Subpoena, GSA Form 9534  
 Form 4—Government Certificate of Finality  
 Form 5—Appellant/Protester/Intervenor/Applicant Certificate of Finality